

CORRESPONDENCE/MEMORANDUM

DATE: August 11, 2006

FILE REF: WA-742 06

TO: Al Shea, AD/5
Amy Smith, AD/5

FROM: Sue Bangert, WA/3

SUBJECT: Management of Universal Wastes in Wisconsin- **REVISED**

RECEIVED

AUG 22 2006

WASTE & MATERIALS
MANAGEMENT PROGRAM

Wisconsin's hazardous wastes are regulated under ch. 291, Wis. Stats., and chs. NR 660 to 679, Wis. Adm. Code. The purpose of these regulations is to ensure environmentally sound management and disposal of hazardous waste.

While these regulations were developed to be protective of the environment, there are situations where these regulations may make recycling of certain commonly generated hazardous wastes difficult. To address this problem, and to encourage environmentally sound collection, management, and recycling, Wisconsin adopted the Universal Waste Rules, ch. NR 673, Wis. Adm. Code. This chapter provides reduced regulatory requirements for certain hazardous wastes identified in that rule chapter as "universal wastes." The wastes currently regulated under NR 673, Wis. Adm. Code, include **hazardous waste batteries, pesticides, lamps, and mercury thermostats**.

EPA's federal universal waste rule, 40 CFR, Part 273, includes hazardous waste batteries, pesticides, lamps, and mercury containing equipment. EPA revised the universal waste rule on August 5, 2005 to include mercury containing equipment rather than only mercury thermostats.

Wisconsin can seek to add new hazardous wastes to the State's list of Universal Wastes, and Department staff intend to propose expanding this rule to include additional wastes, and appropriate management standards. This guidance memo identifies these additional wastes and references their associated management standards.

Wisconsin is working to add **mercury containing equipment** to ch. NR 673, Wis. Adm. Code, and is using enforcement discretion to regulate it as universal waste in the interim. Wisconsin is also using enforcement discretion to regulate **antifreeze** as a universal waste.

This memo requests that the Department exercise discretion in enforcing the hazardous waste management requirements in chs. NR 660 to 679, Wis. Adm. Code, for the specific waste streams outlined in Table I.

Some of the reduced requirements from hazardous waste regulation include:

- A solid or hazardous waste transportation license is not required for transportation to another handler or a destination facility.
- A hazardous waste manifest is not required during shipment within Wisconsin.
- These wastes do not have to be reported on the hazardous waste annual report (by small and large quantity generators).
- These wastes may be accumulated on-site for one year (by small and large quantity generators).

Some of the wastes listed in Table I may not consistently be hazardous. To eliminate the need to determine if the waste is hazardous or non-hazardous, the Department recommends managing these wastes in accordance with this guidance.

Table I. Waste Subject to Enforcement Discretion

Waste	Description	Management Standards
Mercury containing equipment	Mercury containing equipment means a device or part of a device that contains elemental mercury integral to its function. These devices vary in size and function and include, but are not limited to electrical relays or switches, thermometers, thermocouples, gauges, barometers and manometers containing elemental mercury.	Mercury containing equipment (MCE) should be managed in accordance with the mercury containing equipment requirements in <u>40 CFR Part 273</u> , Standards for Universal Waste Management, as amended in <u>70 FR 45520</u> (August 5, 2005 Federal Register). PUBL-WA-1004-2006 – Waste Management Standards for Mercury Containing Equipment, summarizes 40 CFR Part 273. Note: Mercury thermostats, which were formally a separate category of universal waste, are incorporated into the spent MCE category of the federal rule.
Antifreeze	Antifreeze is sometimes called used engine coolant, and may include used ethylene glycol or used propylene glycol.	<u>PUBL-WA-356 03 - Waste Antifreeze: Guide. for Generators, Transporters and Recyclers</u>

Note: Standards for persons managing CRTs are addressed in a separate memo titled, “Management of Cathode Ray Tubes in Wisconsin.”

Management of Wastes Subject to Enforcement Discretion:

All wastes listed in Table 1 of this memo should be managed in a manner that protects human health and the environment. Specific management standards are referenced in Table I above. Wastes listed in Table I that are not recycled, or are not managed according to the management standards referenced in this memo, are subject to full hazardous waste regulation. Persons who do not choose to comply with the management standards outlined in this guidance are subject to full hazardous waste regulation under chs. NR 660 to 679, Wis. Adm. Code.

If any hazardous waste or hazardous substance, including any waste covered in this memo, is discharged to the environment, the hazardous substance spill response procedures of ch. NR 706, Wis. Adm. Code, apply.

Disclaimer:

This guidance is in effect from the date this memo is signed until the Department promulgates final rules on the management of these wastes. The Department may modify or withdraw this memo, in whole or in part, at any time.

This document is intended solely as guidance, and does not include any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department

of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

Approved:



Al Shea, Administrator
Division of Air and Waste



Amy Smith, Administrator
Division of Enforcement and Science

Dated:

